

Hon. John C. Coughenour
Noted for Consideration: December 6, 2013

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WENDY JENDRYSIK,

Plaintiff,

v.

RECEIVABLES PERFORMANCE
MANAGEMENT, LLC

Defendant.

Case No. 2:13-cv-00559

**REBUTTAL DECLARATION OF
LUKASZ WOJNOWSKI IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT DISMISSING
PLAINTIFF'S CLAIM IV**

I, Lukasz Wojnowski, under penalty of perjury under 28 U.S.C. §1746, declare as follows:

1. I am an adult over the age of 18. I base this declaration on my personal knowledge. I am competent to testify in this matter.

2. I am the director of information technology for Receivables Performance Management. I have been employed by RPM in its IT department since 2005. I have been its director of IT since 2011. I have front line responsibility for all of RPM's computer systems, including its telephony system (Noble Systems) and its debtor account system

REBUTTAL DECLARATION OF LUKASZ
WOJNOWSKI IN SUPPORT OF RPM
MOTION FOR SUMMARY JUDGMENT- 1
[Case No. 2:13-cv-00559]

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1 (Pick System). We do a significant amount of custom programming of the Pick System
2 because we have a source code license for that system, which allows us to go into the
3 source code and make changes to customize the system for our needs. We do not do any
4 programming of the Noble system because we do not have a source code license.

5 3. Based on my position with RPM, and the hands on programming work I have
6 done on the Pick System, I know with absolute certainty that RPM does not employ any
7 computer software or hardware that has the capacity to randomly or sequentially store or
8 dial telephone numbers.

9 4. In September 2011, Noble provided us with a system upgrade.

10 5. I also know with absolute certainty, based on my responsibilities at RPM,
11 that RPM has not had the capacity to randomly or sequentially dial telephone numbers
12 since September 2011.

13 6. In response to discovery requests, we furnished plaintiff with a copy of the
14 only manuals we have ever received from Noble. These documents were delivered to us
15 before our 2011 upgrade. At the time of the upgrade, we received a separate manual called
16 Maestro. Except for the fact that our system has not had the capacity to dial numbers
17 randomly or sequentially since the September 2011 upgrade, the Noble system essentially
18 functions as it did before that time.

19 7. Even though we believe that our system does not fall within the definition of
20 an ATDS, until we have some definitive word on that subject, when we know that we are
21 trying to call a cell phone, unless we know that our client has received express consent to
22 do so, we manually dial the number using both in-house and offshore call center employees
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1 until the consumer gives us his/her express consent to call him or her on the cell phone we
2 know about.

3 EXECUTED under penalty of perjury at Lynnwood, WA this 5th day of December,
4 2013.

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7 LUKASZ WOJNOWSKI
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